

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA

v.

ISAAC CALL

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No. 1:01-cr-95
Judge Curtis Collier

ORDER

The Court is in receipt of a pro se motion filed by Isaac Call (“Call”) titled “Motion for Resentencing” (Court File No. 91). Call is in federal custody serving a federal sentence. The document Call has filed alleges his federal conviction and sentence are unconstitutional. Further, the document alleges the Bureau of Prisons has improperly decided not to give Call credit for time he has served on a previous conviction. Thus, it appears Call is attempting to attack his sentence and conviction on constitutional grounds, as well as the execution of his sentence.

To attack his conviction and sentence on constitutional grounds, Call should file a petition pursuant to 28 U.S.C. § 2255. In this petition, Call must claim the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or the Court was without jurisdiction to impose such sentence, or the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack. Call has previously filed a motion pursuant to § 2255 (Court File No. 88). Therefore, if he wishes to file another motion pursuant to § 2255, he is cautioned the law prohibits the filing of a second or successive motion under § 2255 unless it is based upon newly discovered evidence or a new rule of constitutional law the Supreme Court has made retroactive to cases on collateral review.

To attack the execution of his sentence, Call must file a motion pursuant to 28 U.S.C. § 2241. Since Call is presently incarcerated in Virginia, his § 2241 motion should not be filed with this Court. A § 2241 motion must be filed with the federal court which has jurisdiction over the place where a prisoner is presently incarcerated. *In re Hanserd*, 123 F.3d 922, 925 n.2 (6th Cir. 1997).

Since it is unclear what type of motion Call has filed, the **CLERK** is **DIRECTED** to send Call the proper form for filing a § 2255 motion in case Call wants to file another § 2255 motion. Call may decide to file a § 2255 motion with this Court and a § 2241 motion with the appropriate district court in Virginia, or he may decide to file just one of the previously mentioned motions.

Regardless of what Call decides to do, his current motion for resentencing (Court File No. 91) is **DENIED** and his claims are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE